

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

STEVEN B. McDANIEL,

Petitioner

VS.

JOHN TWILLINGER,

Respondent

NO. 5: 05-CV-69 (DF)

**PROCEEDINGS UNDER 28 U.S.C. § 2254
BEFORE THE U.S. MAGISTRATE JUDGE**

RECOMMENDATION OF DISMISSAL

On June 21, 2005, the respondent in the above-captioned case filed a Motion To Dismiss For Lack Of Exhaustion. Tab #9. Thereafter, on June 24, 2005, the undersigned advised petitioner STEVEN B. McDANIEL of said motion and of his duty to respond properly thereto. Petitioner was further advised that failure to respond within TWENTY (20) DAYS would result in a recommendation of dismissal. Tab #11. The petitioner has failed to respond to the court's order.

Accordingly, IT IS RECOMMENDED that the respondent's Motion To Dismiss For Lack of Exhaustion (Tab #9) be **GRANTED** as UNCONTESTED. Pursuant to 28 U.S.C. §636(b)(1) the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom the case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof. The clerk is directed to serve the plaintiff with a copy of this recommendation by mailing it to the LAST ADDRESS provided by him.

SO RECOMMENDED, this 3rd day of AUGUST, 2005.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE